

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-21-14)
FALCON 48, LLC
DECEMBER 14, 2021

This is a report to the Flathead County Board of Adjustment regarding a request from George Joseph, on behalf of Falcon 48, LLC for a conditional use permit to allow for a 10-unit apartment building on the subject property. The subject property is located within the Evergreen Zoning District and is zoned 'RA-1 Residential Apartment.'

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on January 4, 2022, beginning at 6:00 P.M. in the 2nd floor conference room of the Flathead County South Campus Building, 40 11th Street West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Flathead County South Campus Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is not located within the advisory jurisdiction of a Land Use Advisory Committee.

B. Board of Adjustment

This space is reserved for an update regarding the January 4, 2022 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant

George J. Joseph
P.O. Box 4823
Whitefish, MT 59937

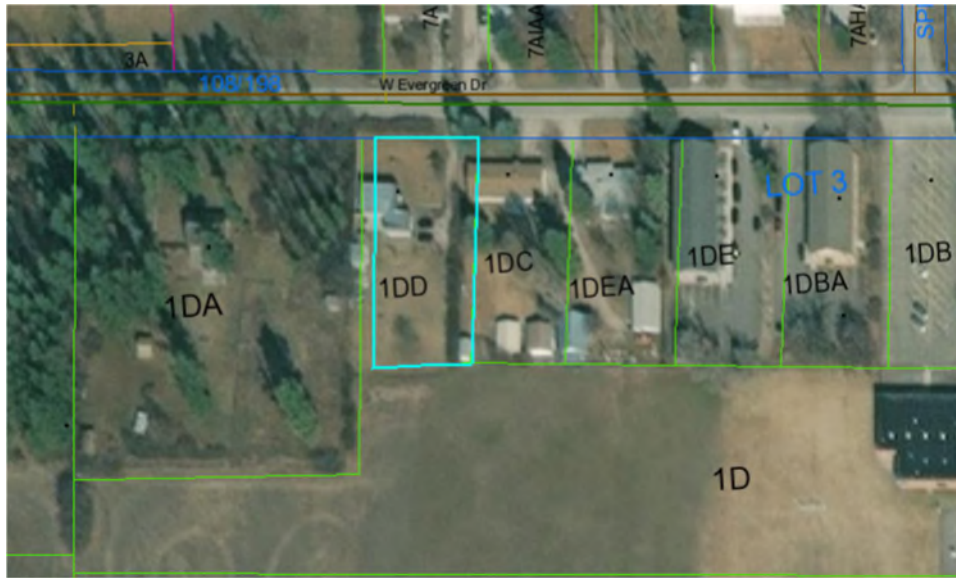
ii. Landowner

Falcon 48, LLC
P.O. Box 4823
Whitefish, MT 59937

B. Property Location and Size

The subject property is located at 48 West Evergreen Drive and is approximately 0.5 acres. The property can be legally described as Tract 1DD in Section 04, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana (see Figure 1 below).

Figure 1: Subject property outlined in blue



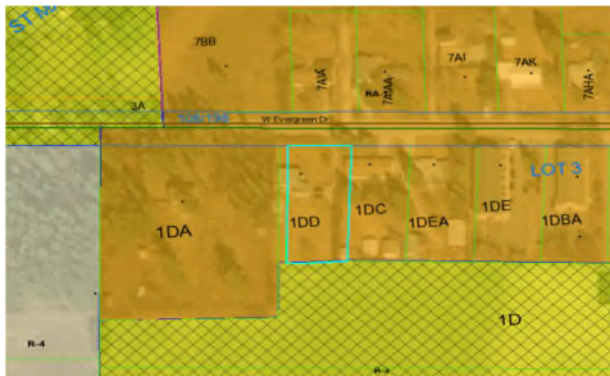
C. Existing Land Use(s) and Zoning

The property is currently developed with a house. The property is located within the Evergreen Zoning District and is zoned ‘RA-1 Residential Apartment.’ RA-1 is a district intended to “A district to provide areas for multi-family use and for non-residential uses, which support or are compatible with the primarily residential character. This district is intended as a buffer between residential districts and other non-residential districts. This district shall be served by community water and sewer and have immediate access to fire, police, refuse, and park facilities.”

D. Adjacent Land Use(s) and Zoning

The properties to the north, east and west are similarly zoned RA-1 and the properties to the south are zoned R-3 (see Figure 2 below). The properties to the north, east and west are single family residential. To the south of the subject property is the Evergreen Elementary School. Also in the vicinity are five other multi-family apartment buildings that the applicant received conditional use permits for and has constructed.

Figure 2: Zoning surrounding the subject property (outlined in blue)



E. Summary of Request

The applicant is proposing to construct a 10-unit apartment building on the subject property, which would meet the definition of dwelling, multi-family *“buildings designed to house three or more families living independently of each other in separate dwelling units but having one yard in common”* [Section 8.05.130 FCZR]. Multi-family dwellings require a conditional use permit under RA-1 zoning [Section 3.15.030(10)]. The proposed building will be similar to other apartment buildings the applicant has constructed in the area (see Figure 3 below).

Figure 3: Picture of apartment building on nearby lot



F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on **December XX, 2021**, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application was published in the **December XX, 2021**, edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on December 3, 2021:

- Flathead County Road and Bridge Department
 - Reason: The property is located on a county road, and has the potential to impact county facilities.
- Flathead County Solid Waste (FCSW)
 - Reason: The property is located within the department’s jurisdiction, and has the potential to impact county facilities.
- Evergreen Fire Department
 - Reason: The property is located within the department’s jurisdiction, and has the potential to impact Evergreen Fire Department response.
- Evergreen Water and Sewer District

- Reason: The property is located within the department's jurisdiction, and has the potential to impact Evergreen Water and Sewer District facilities.
- Flathead City-County Environmental Health Department
 - Reason: The property is located within the department's jurisdiction.
- Montana Department of Natural Resources and Conservation
 - Reason: The DNRC has requested a copy of all agency referrals.
- Bonneville Power Administration
 - Reason: The BPA has requested a copy of all agency referrals.
- Evergreen Elementary School District
 - Reason: Property is located within school district boundaries and has potential to impact Evergreen Elementary School District facilities.
- Flathead High School District
 - Reason: Property is located within school district boundaries and has potential to impact Flathead High School District facilities.

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding this request for a conditional use permit. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for March 1, 2016. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Flathead County Road and Bridge Departments

At this time, no comment has been received.
- Evergreen Water and Sewer

Comment: *"We agree with this application and have the capacity for water and sewer service upon all fees paid and services are in accordance with the District's specification and standards. Mr. Joseph has built and owns other apartment complexes in this area and met the District's standards and specifications. The apartment buildings seem to be in repair and grounds well kept."* Comment received 12.13.2021
- Flathead County Solid Waste District

Comment: *"After reviewing the application, the Solid Waste District views no negative impact with solid waste issues at this time. The District requests that all solid waste generated at the proposed location be hauled by a private hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission Licensed hauler in this area."* Comment received 12.9.2021
- Flathead City-County Health Department

Comment: *"This parcel would need to be reviewed by DEQ for the proposed use as submitted FCU application. This review would address potable water supply, wastewater treatment and disposal, storm drainage, and solid waste disposal in accordance with 76-4-Part 1, MCA Sanitation in*

Subdivisions.” Comment received 12.9.2021

- Bonneville Power Administration

Comment: “At this time, BPA does not object to this request, as the property is located approximately 1.79 miles away from the nearest BPA transmission lines or structures.” Comment received 12.6.2021

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

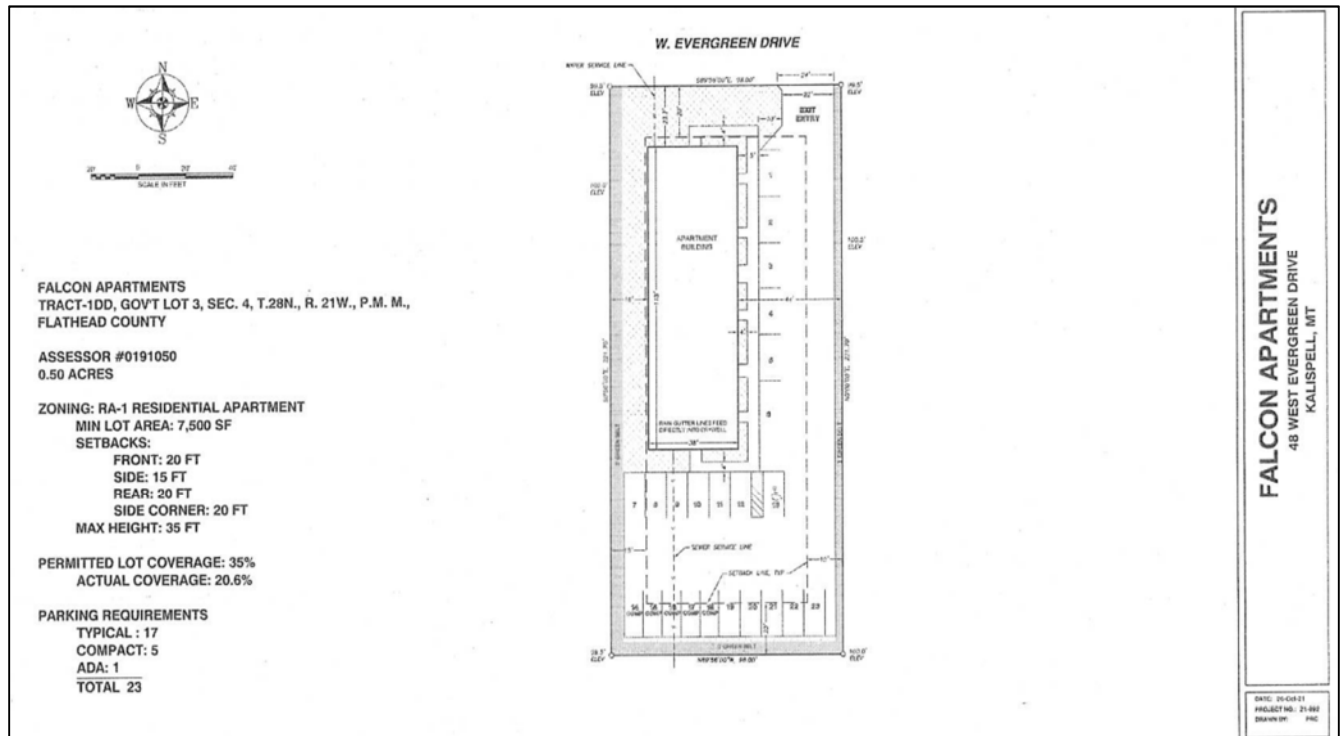
i. Adequate Usable Space

The subject property is currently zoned RA-1. In the ‘RA-1’ zone, the minimum lot size is 7,500 square feet but requires an additional 1,500 square feet for each dwelling unit in excess of two. For the proposed 10-unit apartment building a minimum lot size of 18,000 square feet would be required. The subject property is approximately 21,736 square feet in size. The applicant is proposing to construct a building approximately 4,484 square feet in size. The permitted lot coverage in an RA-1 zone is 35% and the proposed building would cover 20.6% of the lot.

The proposal provides for 23 off-street parking spaces, a 5 foot landscaping buffer around the property boundary required by section 6.11.040 of the Flathead County Zoning Regulations, and a sidewalk connecting the parking area with the entryways (see Figure 4). The front and rear setbacks for the property are 20 feet and the side setback for a 3-plex or larger is 15 feet. The site plan shows the building located outside the required setbacks. Based on the submitted site plan and staff’s site visit there appears to be adequate space to accommodate the proposed use on the property.

Finding #1 – The subject property appears to contain adequate usable space because the lot is approximately 21,736 square feet which is larger than the minimum lot size required for a 10-unit apartment building, the proposed building will be located outside the setbacks, the building will cover 20.6% of the lot, and there will be adequate room for parking, and a landscape buffer.

Figure 4: Proposed site plan



ii. Adequate Access

The application states, “The proposed building will be accessed by a 22-foot-wide dovetailed driveway. This surface will be professionally engineered and finished in concrete and or asphalt by a local paving company.” The subject property is located on West Evergreen Drive, which is a paved 20-foot wide, two-lane collector within a 60 foot easement. The site plan shows one access located at the northeast corner of the property via West Evergreen Drive. Per Section 6.11.010 [FCZR], no driveway in the front yard setback shall be wider than 22 feet. The approach is proposed to be 22 feet wide within the front yard setback. Based on staff’s site visit it appears there is adequate sight distances from the proposed access to enter and exit the property safely. All access onto county roads shall have been approved by the County Road and Bridge Department with the issuance of an approach permit, per Section 6.16.020(4) [FCZR].

Figure 5: West Evergreen Drive in front of subject property

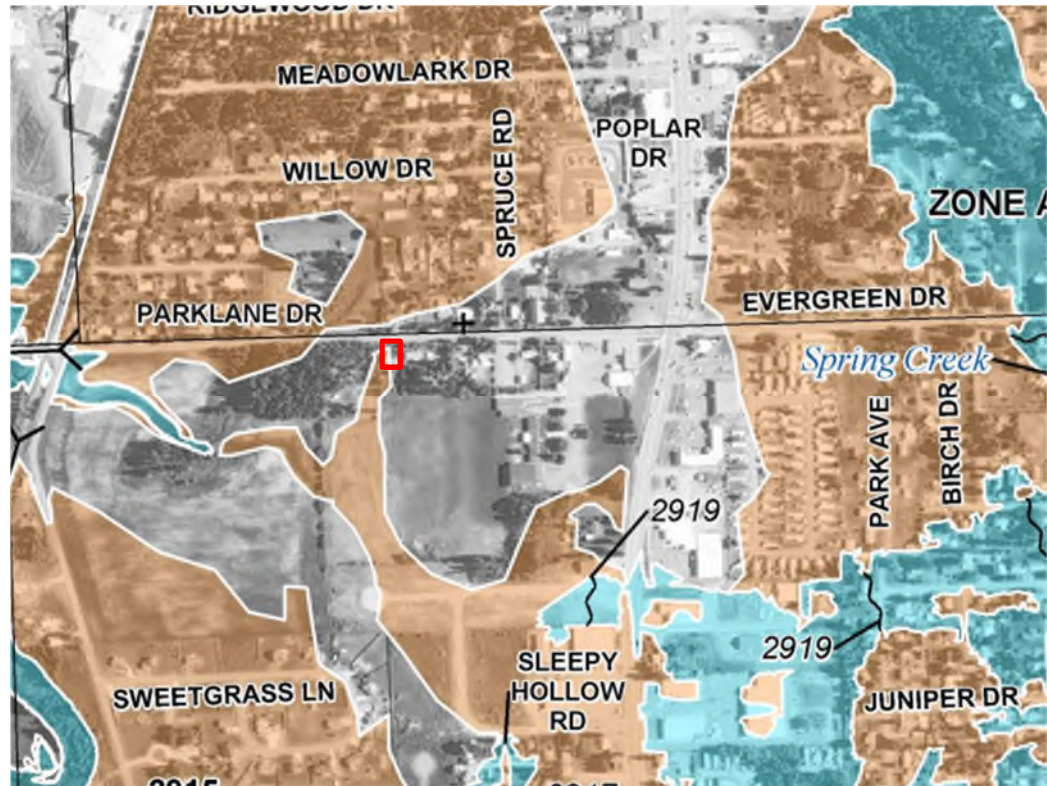


Finding #2 – There appears to be adequate access for the proposed use because the site plan shows a 22-foot-wide driveway within the front setback, there is adequate sight distance to safely enter and exit the property and the applicant will need to obtain an approach permit from Flathead County Road and Bridge Department.

iii. Absence of Environmental Constraints

The subject property is relatively flat with no significant elevation changes. The subject property is located on FEMA FIRM panel 30029C1810J. The lot is located primarily in an un-shaded Zone X, classified as an area outside the 500-year floodplain. A small portion of the property, roughly 22% on the western portion, is located within the 500-year floodplain. Additionally, there are no wetlands, streams, or creeks located on the parcel and there appears to be no other environmental constraints.

Figure 6: FEMA FIRM 30029C1810J (Subject property outlined in red)



Finding #3 – As proposed, the multi-family apartments appears to have no environmental constraints because the property is relatively flat, not located in a 100 year floodplain, and no wetlands, streams or creeks are located on the subject property.

B. Appropriateness of Design

i. Parking Scheme

According to the submitted application and site plan, the applicant is proposing 23 parking spaces including; 5 compact spaces and 18 standard spaces (one of which is ADA compliant). Section 6.02.030 of the Flathead County Zoning Regulations requires that multi-family dwellings have 2 parking spaces per dwelling unit. Additionally, off-street visitor parking shall be provided equal to 1 parking space per every 4 living units. The applicant is proposing to build a 10-unit apartment; therefore the applicant would be required to provide 20 parking spaces for residents and another 3 for guests or 23 total spaces.

Per Section 6.01.010(6) [FCZR], no more than 20% of the required parking spaces are allowed to be compact and all spaces are required to be clearly marked. Because 23 spaces are required, 18 of the parking space are required to be standard spaces and the remaining 5 can be compact spaces. Based on the

applicant's submitted site plan and staff's site visit to the subject property, there appears to be adequate space for the required parking.

The site plans shows a driving lane, between parking spaces, 24 feet wide for two-way traffic, meeting the requirements set forth in Appendix A [FCZR] based on the angle of the parking. Section 6.01.030 [FCZR] requires all parking spaces to be clearly designated and demarcated, therefore the applicant will be required to clearly designate and demarcate parking spaces.

ii. Traffic Circulation

The site is accessed from West Evergreen Drive, a paved two lane county collector. The site plan shows traffic aisles approximately 22 feet to 24 feet wide. The 24 foot wide traffic aisle is required for two way traffic with 90 degree parking and 20 feet is required for 0 degree parking per Appendix A [FCZR]. The driveway width of 22 feet would provide for adequate travel lanes and area to turn around. The proposed parking area appears large enough to accommodate the number of proposed spaces, while affording adequate and compliant internal traffic circulation.

Finding #4 – The proposed designated parking scheme and traffic circulation is acceptable because the site plan shows 23 designated and demarcated parking spots and the proposed traffic aisle widths meet standards set forth in Appendix A [FCZR].

iii. Open Space

The subject property is approximately 21,736 square feet in size and the proposed apartment building would cover 20.6% of the total lot. The parking lot will be located in the rear yard and side yard. The front yard and an area on the west side of the building will remain open space. A 5 foot landscape stripe is being proposed along the entire boundary of the property. The proposed size of the building and location shown on the site plan would be able to comply with the setbacks and permitted lot coverage requirements within the RA-1 zone.

iv. Fencing/Screening

The application states, "*We intend to landscape and or fence the required setback areas along the edges of the property. If a fence is built, it will conform to the zoning of this property.*" Any fencing constructed on the property would be required to comply with Section 5.04 [FCZR].

v. Landscaping

Landscaping is required within RA-1 zones when open air parking is located within the side and rear setbacks to serve 3-plex or larger residential uses [Section 6.11.040 FCZR]. Since the applicant is proposing to build a 10-unit apartment building and open parking is proposed within the setback, a 5 foot landscaping and solid screening area is required to be provided adjacent to the adjoining property boundary. The application states, "*Landscaping will be completed by a professional landscaping contractor as per the site plan. Intend to install sprinkler/drip system to ensure proper growth and management.*" The site plan shows a 5 foot landscaping buffer around the subject property.

Finding #5 – The proposed open space, fencing, screening, and landscaping on the subject property appears adequate because the proposed use will cover 20.6% of the lot, the applicant is providing a 5-foot landscaping buffer and solid screening area and screening or fencing will be in accordance with Section 5.04 [FCZR].

vi. Signage

The applicant is not proposing any signs at this time. However, the application states, “*If any signs are installed, they will confirm with the sign standards for this district.*” If the applicant installs signage, it must conform to Chapter VII FCZR.

Finding #6 – There will be limited impacts resulting from signage because the applicant is not proposing signage and the applicant has stated that if any signage is constructed it would comply with sign standards set forth in the Flathead County Zoning Regulations.

vii. Lighting

It appears likely that because the building is a multi-family residence, exterior lighting would be included. The applicant has stated, “*Any and all lighting, if used will be shielded and directed onto the subject property.*” If the applicant chooses to install lighting it must comply with performance standards set forth in [FCZR] Section 5.12.

Finding #7 – There will be limited visual impacts resulting from lighting because any proposed lighting would be required to comply with applicable requirements set forth in the Flathead County Zoning Regulations and will be inspected for compliance at the end of one year.

C. Availability of Public Services and Facilities

i. Sewer

Comment from Evergreen Water and Sewer states, “*We agree with this application and have the capacity for water and **sewer** service upon all fees paid and services are in accordance with the District’s specification and standards*”.

ii. Water

Comment from Evergreen Water and Sewer states, “*We agree with this application and have the capacity for **water** and sewer service upon all fees paid and services are in accordance with the District’s specification and standards*”.

Finding #8 – The proposed use is expected to minimally impact public water and sewer services because water and sewer service is available from the Evergreen Water and Sewer District with a fee and the District had no concerns with the proposal.

iii. Storm Water Drainage

The applicant is proposing that all storm water be directed towards the landscaped areas surrounding the property and an in ground drainage basin will be installed for storm water run-off.

All parking areas and access driveways shall have at a minimum, per Section 6.11.030(1) [FCZR], adequate drainage so that injuries not be caused to adjacent

properties nor will water drain across a public walk. All storm water runoff is required to be absorbed on-site.

Finding #9 – The proposed method of storm water management appears adequate because the applicant will manage storm water runoff on-site through absorption techniques using open space.

iv. Fire Protection

The applicant states, “*Evergreen Fire Department will provide protection. The fire department is approximately one (1) mile from subject building. Building will be engineered and constructed to current state building codes*”. The subject property is currently served by the Evergreen Fire Department and is located approximately 0.4 miles southwest of the existing fire station. Due to the centralized location of the property in Evergreen and the proximity to a fire station, quick response times in the event of an emergency are anticipated.

v. Police Protection

The property would be served by the Flathead County Sheriff’s Department. It is anticipated that response times in an emergency would not be unreasonably long given the property’s proximity to an urban, developed area of the County.

vi. Streets

The subject property is accessed via West Evergreen Drive. West Evergreen Drive is classified as a collector and is a paved two-lane road within a 60-foot right-of-way. West Evergreen Drive is maintained by the Flathead County Road and Bridge Department. The property is located approximately 1,150 feet west of U.S. Highway 2 which would likely be used by many of the residents of the proposed apartment building. Highway 2 is a paved five lane MDT maintained highway.

Finding #10 – The proposed use appears to have acceptable impacts on public services and facilities because the Evergreen Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by West Evergreen Drive, a paved two lane county collector.

D. Immediate Neighborhood Impact

i. Excessive Traffic Generation

As previously discussed, West Evergreen Drive is a paved two lane county collector. According to the ITE Trip generation 5th Edition, a 10-unit apartment building would generate approximately 63 vehicle trips per day. This is based on an average daily rate of 6.28 trips generated per dwelling unit. The most recent traffic counts for West Evergreen Drive east of River Road were taken in April of 1999 by the Flathead County Road and Bridge Department. The average daily trips on West Evergreen Drive were determined to be 4,258 at that time. The vehicle trips generated as a result of this proposal amounts to an increase of approximately 1.5% from the 1999 counts.

At this time, the Planning Office has not received any comment from the Flathead County Road and Bridge Department.

The subject property is located within a RA-1 zone and there are other multi-family apartments in the neighborhood. The amount and type of traffic resulting from the proposed use is anticipated to be similar to existing traffic conditions in the area and around the intersection of West Evergreen Drive and Spruce Road and does not appear to generate excessive traffic.

Finding #11 – Additional vehicle traffic associated with the proposed use is not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood because the traffic generated from the proposed use is anticipated to be similar to existing traffic conditions in the area.

ii. Noise or Vibration

While some noise and vibration will naturally occur as a result of construction activities related to the development of the building, these impacts will be limited in duration and should not negatively impact the surrounding area. No noise or vibration beyond what is typical for a residential area is anticipated as a result of the proposed multi-family dwelling.

Finding #12 – The proposed use is not anticipated to have an immediate neighborhood impact because the multi-family dwelling will not create excessive noise or vibration.

iii. Dust, Glare or Heat

While some dust is anticipated during construction activities, the resulting impacts will be limited in duration, similar to the impacts of construction noise and vibration. Excessive dust is not anticipated as a result of the proposed multi-family dwelling, as West Evergreen Drive is a paved roadway and the proposed parking lot will also be paved.

As with any development, increased impervious surface area and windows do have the potential to increase the impacts of glare and heat on the subject property as well as the surrounding area. However, these impacts can be mitigated by retaining open space on the subject property in conformance with the bulk and dimensional requirements of the zoning and ideally, landscaping these areas or maintaining them as grass or other types of pervious surfaces.

Finding #13 – The proposed use is not anticipated to have an immediate neighborhood impact concerning dust because the subject property falls within the Kalispell Air Pollution Control District is subject to the applicable Flathead County Air Pollution Control Regulations, the parking lot will be paved, and access will be off a paved road.

iv. Smoke, Fumes, Gas, or Odors

The proposed multi-family dwelling is not expected to create any smoke, fumes, gas or odors beyond those typically associated with residential activities. The proposed use will likely not impact the surrounding neighborhood with regard to these types of emissions.

Finding #14 – The proposed use is not anticipated to have an immediate neighborhood impact concerning smoke, fumes, gas or odors beyond those typically associated with residential activities.

v. Inappropriate Hours of Operation

The proposed multi-family dwelling will operate as is typical for a residential area; no hours of operation have been proposed by the applicant or are necessary for a residential dwelling.

Finding #15 – The proposed use is not anticipated to have inappropriate hours of operations and will operate in a manner consistent with residential uses in the surrounding residential area.

V. SUMMARY OF FINDINGS

1. The subject property appears to contain adequate usable space because the lot is approximately 21,736 square feet which is larger than the minimum lot size required for a 10-unit apartment building, the proposed building will be located outside the setbacks, the building will cover 20.6% of the lot, and there will be adequate room for parking, and a landscape buffer.
2. There appears to be adequate access for the proposed use because the site plan shows a 22-foot-wide driveway within the front setback, there is adequate sight distance to safely enter and exit the property and the applicant will need to obtain an approach permit from Flathead County Road and Bridge Department.
3. As proposed, the multi-family apartments appear to have no environmental constraints because the property is relatively flat, not located in a 100-year floodplain, and no wetlands, streams or creeks are located on the subject property.
4. The proposed designated parking scheme and traffic circulation is acceptable because the site plan shows 23 designated and demarcated parking spots and the proposed traffic aisle widths meet standards set forth in Appendix A [FCZR].
5. The proposed open space, fencing, screening, and landscaping on the subject property appears adequate because the proposed use will cover 20.6% of the lot, the applicant is providing a 5-foot landscaping buffer and solid screening area and screening or fencing will be in accordance with Section 5.04 [FCZR].
6. There will be limited impacts resulting from signage because the applicant is not proposing signage and the applicant has stated that if any signage is constructed it would comply with sign standards set forth in the Flathead County Zoning Regulations.
7. There will be limited visual impacts resulting from lighting because any proposed lighting would be required to comply with applicable requirements set forth in the Flathead County Zoning Regulations and will be inspected for compliance at the end of one year.
8. The proposed use is expected to minimally impact public water and sewer services because water and sewer service is available from the Evergreen Water and Sewer District with a fee and the District had no concerns with the proposal.
9. The proposed method of storm water management appears adequate because the applicant will manage storm water runoff on-site through absorption techniques using open space.

10. The proposed use appears to have acceptable impacts on public services and facilities because the Evergreen Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by West Evergreen Drive, a paved two-lane county collector.
11. Additional vehicle traffic associated with the proposed use is not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood because the traffic generated from the proposed use is anticipated to be similar to existing traffic conditions in the area.
12. The proposed use is not anticipated to have an immediate neighborhood impact because the multi-family dwelling will not create excessive noise or vibration.
13. The proposed use is not anticipated to have an immediate neighborhood impact concerning dust because the subject property falls within the Kalispell Air Pollution Control District is subject to the applicable Flathead County Air Pollution Control Regulations, the parking lot will be paved, and access will be off a paved road.
14. The proposed use is not anticipated to have an immediate neighborhood impact concerning smoke, fumes, gas or odors beyond those typically associated with residential activities.
15. The proposed use is not anticipated to have inappropriate hours of operations and will operate in a manner consistent with residential uses in the surrounding residential area.

VI. CONCLUSION

Upon review of this application, the request to allow for a 10-unit multi-family dwelling on the subject property is generally supported by the review criteria and the Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-21-14 as Findings of Fact and approve the conditional use permit, the following conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

VII. CONDITIONS

1. Construction of the multi-family building on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. The approved use shall conform to the applicable standards of the 'RA-1 Residential Apartment' zoning designation [FCZR Section 3.15].
4. The subject property shall have a minimum of 23 parking spaces to accommodate the proposed 10 units, in accordance with the applicable zoning regulations [FCZR Section(s) 6.01.020 and 6.02.030].

5. All required off-street parking and residential driveways associated with the multi-family dwelling shall meet the applicable design guidelines and special conditions set forth in the Flathead County Zoning Regulations [FCZR Section(s) 6.01, 6.11 and 6.14].
6. The proposed use shall maintain a 5 foot landscape buffer and solid screening around the perimeter of the property, in accordance with Section 6.11.040 FCZR.
7. The proposed use shall be reviewed by the Flathead County Road and Bridge Department and obtain an approach permit for a multi-family dwelling. A copy of the approved permit shall be available upon request by Flathead County Planning and Zoning.
8. All signage on the subject property shall comply with all applicable standards and guidelines set forth under Chapter VII of the Flathead County Zoning Regulations.
9. All lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations.
10. All applicable requirements shall be met and applicable permits obtained to be in compliance with the Flathead County Air Pollution Control Regulations.
11. The conditional use permit shall terminate twelve (12) months from the date of authorization if commencement of authorized activity has not begun, unless the applicant can demonstrate and maintain a continuous effort in good faith in commencing the activity. [FCZR Section 2.06.060].
12. At the end of 12 months from the date of authorization of this permit staff will inspect to verify compliance [FCZR Section 2.06.060].

Planner: LS